

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA**

**UNITED STATES OF AMERICA,**

**Plaintiff,**

**vs.**

**DAMEIN CLARK,**

**Defendant.**

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**Case No. 8:07CR-184**

**ORDER**

This case is before the court on the defendant's Motion to Review Pretrial Detention (#11). The defendant requests the reopening of the issue of detention and allowing the defendant to reside with a proposed third-party custodian, his biological aunt, Janis Kimble. The court directed that Pretrial Services investigate the proposed placement and on June 29, 2007, I received a Memorandum setting out the details of the investigation of the Kimble residence, and Pretrial Services' recommendation that the defendant remain in custody.

After reviewing the June 29, 2007 Pretrial Services Memorandum, the June 28, 2007 Pretrial Services Report and my June 28, 2007 Detention Order (#12), I find the motion should be denied without hearing.

The proposed placement with the defendant's aunt fails to address the court's concerns as set out in the Detention Order and fails to rebut the presumption of detention under 18 U.S.C. § 3142(e). Specifically, I am concerned by the representation made by the aunt to Pretrial Services that her cousin, who resides in the home, has no prior criminal record, when the report of Pretrial Services shows the following record of convictions:

9/17/99	Possession of crack cocaine-felony;
8/8/01	Possession of marijuana;
3/14/02	Open liquor container, driving under suspension, willful reckless driving, failure to appear;
3/11/04	Driving under revocation;
5/17/06	Obstruction administrative law.

**IT IS ORDERED** the defendant's Motion to Review Pretrial Detention (#11) is denied without hearing.

Dated this 6<sup>th</sup> day of July 2007.

BY THE COURT:

S/ F. A. Gossett  
United States Magistrate Judge